

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE: ASBESTOS PRODUCTS LIABILITY
LITIGATION (NO. VI)**

CIVIL ACTION NO. MDL 875

This Document Relates to:

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

FRANK BANKSTON, et al.

PLAINTIFFS

VS.

CIVIL ACTION NO.: 1:01CV162GR

OWENS-ILLINOIS, INC., et al.

DEFENDANTS

**DEFENDANT OGLEBAY NORTON COMPANY'S MOTION TO DISMISS FOR
FAILURE TO COMPLY WITH ADMINISTRATIVE ORDER NO. 12**

COMES NOW Oglebay Norton Company (hereinafter "Oglebay Norton"), a Defendant in the above named and numbered action, and respectfully moves this Honorable Court, pursuant to Fed. R. Civ. P. 41(b) to dismiss Plaintiffs' claims against Oglebay Norton because Plaintiffs have failed to comply with the Court's Administrative Order No. 12.

1. Plaintiffs filed their Complaint naming Oglebay Norton on March 20, 2001.
2. Pursuant to this Court's Administrative Order No. 12, Plaintiffs were to have submitted a report to this Court identifying each Plaintiff by full name, date of birth, last four digits of Plaintiffs' Social Security numbers, and a statement indicating the status of each Plaintiff in the cases before this Court.
3. Pursuant to this Court's Administrative Order No. 12, Plaintiffs were to have identified each and every prior or pending court or administrative action brought with the intent of satisfying Plaintiffs' damages.

4. Additionally, pursuant to this Court's Administrative Order No. 12, Plaintiffs were to have submitted a statement of the case status and medical reports for each and every Plaintiff.

5. Plaintiffs had until November 1, 2007 to comply with this order.

6. Plaintiffs have failed to comply with this Court's Administrative Order No. 12.

WHEREFORE, Oglebay Norton Company respectfully moves this Honorable Court to enter an Order dismissing the Complaint against it on the grounds that Plaintiffs have failed to comply with the Court's Administrative Order No. 12.

This the 9th day of September, 2008.

Respectfully submitted,

/s/ Kathryn E. Smith
Kathryn E. Smith, MS Bar #101656
Counsel for Defendant

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CERTIFICATE OF SERVICE

I, Kathryn E. Smith, attorney of record for Oglebay Norton Company, do hereby certify that I have this day I have filed by electronic means, a true and correct copy of the above and foregoing Oglebay Norton Company's Motion to Dismiss to the Clerk of the Court. A true and correct copy has been sent this day via e-transmission to Plaintiffs' counsel and all known Defense counsel.

This the 9th day of September, 2008.

/s/ Kathryn E. Smith
Kathryn E. Smith

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